

**MINUTES  
CITY OF ST. CHARLES  
LIQUOR CONTROL COMMISSION MEETING  
MONDAY, APRIL 16, 2018**

**1. Call to Order.**

The meeting was called to order by Liquor Commissioner Rogina at 4:30 pm.

**2. Roll Call.**

**Members Present:** Liquor Commissioner Rogina, Ald. Silkaitis, Ald. Vitek

**Members Absent:** Mr. Cliff Carrignan, Mr. Robert Gehm

**Others Present:** Mark Koenen, Atty. John McGuirk, Police Chief Jim Keegan,  
Rita Tungare and Tracey Conti

**3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on March 19, 2018.**

Motion by Ald. Silkaitis second by Ald. Vitek to accept and place on file minutes of the Liquor Control Commission meeting held on March 19, 2018.

**Voice Vote:** Ayes: unanimous, Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion Carried.**

**4. Recommendation to Approve a Proposal for a New Class E-4 Temporary Liquor License for a Special Event, “Unwind Wednesdays” to be held on the 1<sup>st</sup> Street Plaza.**

**Chief Keegan:** This is a repeat event from last year that was very successful; a request for a temporary E-4 License. McNally’s, Puebla Modern Mexican, and Pizzeria Neo have partnered once again for Unwind Wednesday’s. This encompasses a number of dates from June 6, 2018 – September 5, 2018, this coincides with St. Charles Live in 1<sup>st</sup> Street Plaza.

**Ald. Silkaitis:** Weren’t there some dates cancelled due to bad weather and they had to change them?

**Chief Keegan:** Yes. Last year there were a number of cancellations due to the weather we went back to Council to ask for the number of dates initially asked for last year, from Memorial Day to Labor Day.

**Ald. Silkaitis:** If for some reason we have bad weather in those dates, you could potentially...

**Colm Headly:** There are no makeup dates.

**Chrmn. Rogina:** The response was that there are no makeup dates.

**Chief Keegan:** I was asked by one of the alderman how we define dusk. In my memorandum it’s outlined as 5 pm – dusk. I was asked to refine that a little bit.

**Chrmn. Rogina:** We can bring that to Committee tonight. I think the concept has been okay, we can refine that at Council Committee tonight. Dusk is different between June and September.

**Ald. Silkaitis:** We could put a time in there now.

Motion by Silkaitis second by Vitek to recommend approval of a Proposal for a New Class E-4 Temporary Liquor License for a Special Event, “Unwind Wednesdays” to be held on the 1<sup>st</sup> Street Plaza from 5pm – 9pm.

**Roll Call:** Ayes: Silkaitis, Vitek Nays: None. Chrmn. Rogina did not vote as Chair. **Motion Carried.**

**5. Recommendation to approve a Proposal for a New G2 Liquor License Application for The Pride Store, LLC Located at 1825 Lincoln Highway, St. Charles. (Octane 93 Nano-brewery)**

**Chief Keegan:** The petitioners are here. This was brought to Liquor Commission on 2 prior occasions. Once to vet the G-2 license, this was advanced through Committee and City Council, and is now in place. Second for the concept plan which received a favorable recommendation, but was paused to look at some zoning issues. The outlying issues related to zoning and the uses of the Octane 93 and the 100 ft. rule as it relates to the existing daycare have all been worked out through Community and Economic Development. The petitioners would like to combine all three of the spaces (Urban Counter, Pride Liquor Store, and Octane 93) into one site license. They share common bathrooms, there is cross access and easements between all three locations in one building, they share common point of sale purchasing system, and the hours of operation mirror each other across all three.

**Chrmn. Rogina:** I thought the Community and Economic Development Department did a great job. Assuming this moves through Council Committee, Council action is predicated upon a recorded permanent easement for the use of the proposed spaces at 1505 Lincoln Highway.

**Rita Tungare:** Yes, that is correct. A recorded easement demonstrating that they have use of the 10 spaces at 1505 Lincoln Highway will have to be provided prior to final Council action.

**Chrmn. Rogina:** Other than that, everything is on target.

**Rita Tungare:** That’s correct.

**Ald. Silkaitis:** What about the 100 ft.; does it meet the requirements?

**Rita Tungare:** It does meet the requirements.

**Ald. Vitek:** I like the concept.

**Ald. Silkaitis:** Each business has its own liquor license and is operated independent from the other, is that correct?

**Guy Morgano:** No. It all flows into the gas station, it’s all included in the same financial.

**Ald. Silkaitis:** Is it 3 separate businesses?

**Guy Morgano:** No.

**Ald. Silkaitis:** You have 2 separate liquor licenses right now, so you must have 2 different businesses. My question is you will have three businesses under one umbrella liquor license. Hypothetically, if one business was to have a violation, and the liquor license was suspended does that mean that all businesses would shut down, or just the one in violation? The way I read it is they would all have to shut down.

**Chrmn. Rogina:** I would go to legal counsel. If one were to have a violation, would it affect all the business? Under reasonability, I would say no.

**Atty. McGuirk:** If there is a violation I think it would apply to everything operating under that umbrella. However, I think the Liquor Commissioner, as a sanction to the violation, could reasonably require that the offending piece of the operation be shut down and the rest be allowed to continue operations. But I think Ald. Silkaitis is correct, without any of that in place, you'd have to shut down the whole operation.

**Chrmn. Rogina:** I would do it from a reasonable standpoint, absent something the State would clearly and definitively say this is what you have to do under a liquor license. We can find out the answer to that question.

**Atty. McGuirk:** It would be the same for any site license.

**Chrmn. Rogina:** To that point, we can site precedence. One of our site licenses was cited for open liquor outside the premises. I didn't suspend in that case, but issued a fine. If I suspended, would it shut down the entire business? That's back to Atty. McGuirk's point, of reasonable.

**Ald. Silkaitis:** According to the license if you have violations it would tell me that you'd have to shut down the whole place.

**Chrmn. Rogina:** We should get that clarified sooner than later.

**Chris Peket:** I think that's a risk we're willing to take.

**Guy Morgano:** It makes sense to me. One license.

Motion by Ald. Vitek second by Silkaitis to recommend approval of a Proposal for a New G-2 Liquor License Application for The Pride Store, LLC Located at 1825 Lincoln Highway, St. Charles. (Octane 93 Nano-brewery)

**Roll Call:** Ayes: Silkaitis, Vitek; Nays: None. Chrmn. Rogina did not vote as Chair. **Motion Carried.**

**6. Recommendation to approve a Late-Night Permit for the RAM Restaurant Group/dba "The Grandstander" located 11 N. 3rd Street (Class B).**

**Chief Keegan:** Chef David Reyes and Rob Mondì are here representing the Grandstander. The RAM Restaurant Group, Inc. has been owned and operated by Mr. Mondì for several years. Mr. Mondì had some health issues and decided to cease business for a short while. He has come back to the City with a new concept, the Grandstander; he currently does have a class B liquor license for RAM Restaurant Group, Inc. dba as Abby's. He's asked to change is dba to the Grandstander, with that is asking for a late night permit.

**Chrmn. Rogina:** For the record, member Gehm did email me today to state that on all three agenda items proposed he is in favor of all three.

I'd like to go through a few points. Rob closed Abby's sometime late last Fall. The story was published in the Chronicle, as you said for health reasons Rob stepped down. In January Rob made a request of me to extend his liquor license. On February 6<sup>th</sup> I granted the extension per section 5.08.150 of our code, which it states very clearly I have the right to do as Liquor Commissioner. I consulted with legal counsel asking if I exceeded my authority under 5.08.150. Legal council is present and will respond shortly for the record. Mr. Mondì and Mr. Reyes are present tonight and I'm convinced that they will respond to all questions about RAM and its updated business model under its class B license. I believe staff is seeking recommendation to grant a late night permit to the B license. City council will have three weeks to ponder all the facts. I feel very comfortable about the process and the fact that we'll get input, have discussion.

**Atty. McGuirk:** I received a number of emails asking me to provide a legal opinion regarding to the issues surrounding this. It wasn't clear to me what opinion was being sought. There was reference made to 5.08.150 as a general proposition. We haven't dealt with an extension before. I think people want to know what the process is and how it will impact this particular licensee. As the Liquor Commissioner mentioned the controlling piece of the ordinance as to this is 5.05.150. That provision provides for extension of liquor licenses. It states the following:

The Liquor Commissioner is granted the authority under 5.05.150 to grant extensions if the licensee requests and extension of license in writing. An extension that is granted does not require the advice and consent of the City Council. This is a provision that grants authority to the Liquor Commissioner. The extension is also not reviewed by the liquor commission. That issue is not before the commission. The issue today is a late night permit. As was discussed, in this case, the licensee is RAM Restaurant Group, Inc. that requested an extension in writing on January 31, 2018. RAM Restaurant Group, Inc. is a class 4 liquor license. On February 6, 2018 the Liquor Commissioner granted an extension of the B license until April 30, 2018. The letter from the Liquor Commissioner states: The extension of your license has been granted until the license expiration date of April 30, 2018. As I see it this licensee stands before us with a class B license that extends through the end of April. Another relevant provision in 5.08.150 that talks about notice and when the extension can be granted. As far as I'm concerned, and the Liquor Commissioner pointed out in his email, that section is ambiguous. It's ambiguous because the first part seems to require prior approval of any extension beyond 30 days. The second part does not specify a time frame that the request has to be made. In this case, the Liquor Commissioner, in my view, looked at the requirements and took the position that the second part is more reasonable and what he relied upon in extending this liquor license. It's my judgement that it's a reasonable approach. It's also my opinion that since the extension has been granted any issue with respect to any technical issues on timing or notice have been waived. There are differing opinions; that's what an ambiguous provision is all about. In this case the Liquor Commissioner

is who makes the determination?

**Mr. Mondt:** We've been here since 2015, no problems. I want to keep it here. I don't think anything has really changed as far as the business. We're still the same company. I've brought in David to help because he's better at this than I am, and healthier.

**Ald. Silkaitis:** When you apply for a St. Charles Business License.

**Atty. McGuirk:** The liquor license?

**Ald. Silkaitis:** There is no business license?

**Atty. McGuirk:** There is no business license.

**Ald. Silkaitis:** When we're changing are we allowed to change a name and intent of business on the liquor license?

**Atty. McGuirk:** The ordinance addresses that. There is a procedure for changing your name. You have to notify the Liquor Commissioner or the Police Chief, and then they can change the name and continue to do business. The ordinance doesn't address changing the type of restaurant, except that there is a provision that when you are approved that the diagram of your operation is what they are bound to operate their business from.

**Chrmn. Rogina:** Rob Mondt is an excellent model for a liquor licensee in our community. He went dark for a while. He's coming back with a new concept as manager is another proven member of the community, David Reyes. To me it's simple; he has a B license and is asking for a late night permit.

**Ald. Vitek:** Thank you Legal Counsel for your depiction. It helped me understand and answered my questions. I see it as our job to approve the late night permit, and you are both very strong business owners, good standing in the community. You do a lot of community work. I think it's awesome that you are partnering together to bring cool concept here to St. Charles. I support the Liquor Commissioners decision. I feel like this is a strong business concept. I like to think of us as business friendly and I don't want to put you through any hoops that you don't need to be put through. I support the late night permit.

**Ald. Silkaitis:** I'm still not comfortable. I think we're changing the concept of what we issue the liquor license for originally. When they come before us for a liquor license they come before us with a plan of what they are going to do. This is not the same thing as the original application. Why don't you just apply for a new license?

**Rob Mondt:** When we did apply originally we just said restaurant/bar.

**Ald. Silkaitis:** When you applied here you had a business plan, what you would be serving, that's not the same as what's being proposed now. That's my concern.

**Chrmn. Rogina:** I think if we stick to the issue at hand, the fact is, he has from my decision a B license. City Council is in a position to decide to grant a late night permit. Legal council agrees

he has a liquor license in place. I'm going upon the language in the ordinance.

**Ald. Vitek:** Move for approval.

**Ald. Silkaitis:** I will second, but I'm not going to hold myself to that. I want to see what happens tonight.

**Chrmn. Rogina:** I appreciate your second for the purpose of moving it along to Council Committee.

Motion by Ald. Vitek, second by Silkaitis to recommend approval of a Late-Night Permit for the RAM Restaurant Group/dba "The Grandstander" located 11 N. 3rd Street (Class B).

**Roll Call:** Ayes: Silkaitis, Vitek; Nays: None. Chrmn. Rogina did not vote as Chair. **Motion Carried.**

**Chrmn. Rogina:** For the record member Gehm is in approval of this.

7. Public Comment

8. Executive Session (5 ILCS 120/2 (c)(4)).

9. Adjournment

Motion by Ald. Silkaitis, second by Vitek to adjourn the meeting at 5:04 pm.

:tc